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SUMMARY OF FEDERAL EVERY STUDENT SUCCEEDS ACT, THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

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ISSUE

Summarize the federal Every Student Succeeds Act (ESSA), which is the reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965, last reauthorized in 2001 as the No Child Left Behind (NCLB) Act.

SUMMARY

The new law P.L. 114-95, enacted by Congress and signed by President Obama earlier this month, addresses state education accountability, student testing requirements, intervention in low-performing schools, teacher evaluation, and grant reauthorization and requirements, among other things. It reauthorizes ESEA for four years.

The new law shifts authority from the federal government to states and districts in a number of areas, including giving states the discretion to determine (1) what it means for a school or district to be successful and (2) when and how to intervene in schools or districts that persistently fail to meet state expectations. It does this by providing states with increased flexibility and responsibility for (1) developing school and school district accountability plans and systems, (2) deciding how student test scores are used, and (3) crafting teacher evaluation systems.

But it maintains the federal requirement, started under NCLB, that all students be tested in math and reading annually in grades three through eight and once in high school and in science once in each of the following three grade ranges: grades three through five, six through nine, and 10 through 12. Also, the scores must be publicly reported and broken down by demographics including race, income, disability status, and English language learner (ELL) status.

Since there were different versions of the bill in the House and the Senate, the final bill was a conference report (House Conference Report 114-354), the compromise between the two houses. Once enacted, the bill became P.L. 114-95.

This report focuses on major changes in education policy in ESSA, which also includes many other provisions not addressed here.

OVERVIEW OF NEW FEDERAL APPROACH

ESSA removes the various sticks the federal government held over states through NCLB and later, under the waivers from NCLB that the U.S. Education Department granted to most states. When NCLB was enacted in 2001, it significantly increased the federal government's role in holding states accountable for their students' academic progress. Under NCLB, if states did not meet the various requirements, they risked losing federal Title I funds, the largest source of federal dollars to states and school districts under ESEA.

The new law bans the federal government from mandating academic standards, assessment, and curricula, specifically including the Common Core State Standards, as a condition for receiving federal grants or waivers. It includes additional prohibitions shown below.

1. The federal government cannot mandate any curriculum or program that the new ESSA does not fund.

2. No funds from the act can be used to endorse, develop, or require any particular curriculum including the Common Core.

3. No state will be required to have academic standards approved by the federal government in order to receive grants under ESSA (P.L. 114-95, § 8023).

This means a state may choose to use the Common Core State Standards, but the federal government cannot force or entice a state into using them.

The law specifies that all federal waivers are null and void and have no legal effect starting August 1, 2016 (P.L. 114-95, § 4(c)). Under the waivers, states were granted relief from the potential penalties the federal government could impose under NCLB in exchange for agreeing to take steps including adopting state standards, such as the Common Core, intervening in low-performing schools and districts, and tying teacher evaluation to student achievement (Connecticut agreed to each of these steps as part of its waiver application). More than 40 states were granted waivers.

STATE AND DISTRICT ACCOUNTABILITY

Accountability Plans and Standards

States are required to submit accountability plans (i.e., Title I plans) to the U.S. Department of Education (USDE) as under prior law. The new plans would start for the 2017-18 school year (P.L. 114-95, § 5(e)(1)). The law imposes a new requirement that states must develop the plans with meaningful consultation from governors, state legislatures, the state board of education, if the state has one, and charter school leaders, if the state has charters, among others. It continues the requirement for consultation with school districts, teachers, principals, pupil services personnel, administrators, other staff, parents, and others (P.L. 114-95, § 1005(a)).

USDE must approve a state's plan within 120 days of submission or provide a detailed explanation of why they are not approved. The federal government must also provide states with (1) technical assistance to revise any plans that are not approved and (2) the opportunity for a hearing on the application.

The plans must provide assurance that the state has adopted challenging academic content and academic achievement standards that (1) must include at least three levels of achievement for math, reading/language arts, and science and (2) may include standards for any other subject the state chooses. The standards must be aligned with entrance requirements for credit-bearing coursework at state higher education institutions and with relevant state career and technical education standards (P.L. 114-95, § 1005(b)(1)).

States are allowed to adopt alternate achievement standards for students with the most significant disabilities as long as those standards align with state academic standards and promote access to general education curriculum consistent with the requirements of the Individuals with Disabilities Education Act.

Limits on Federal Control

While the law requires that states provide assurances of adopting standards, it also clearly provides that the federal government cannot mandate what those standards are:

> A state shall not be required to submit any standards developed under this subsection to the secretary (of education) for review or approval. The secretary shall not have the authority to mandate, direct, control, coerce, or exercise any direction or supervision over any of the challenging state academic standards adopted or implemented by a state (P.L. 114-95, § 1005(b)(1)(G)).

English Language Proficiency Standards

The law requires states to show that they have adopted English language proficiency standards derived from the following domains: speaking, listening, reading, and writing. The standards must address the proficiency levels of English learners and be aligned with the state academic standards (P.L. 114-95, § 1005(b)(1)).

Accountability Goals and Systems

States are allowed to pick their own goals, both long- and short-term (P.L. 114-95, § 1005 (c)). The long-term goals must be ambitious and state-designated and include measurements of progress for (1) all students, (2) student subgroups, and (3) ELL students, for increases in the number of students making progress toward English proficiency. The goals must include an expectation that all groups that are furthest behind (i.e., groups based on race, income, disability, or ELL status) make progress toward closing gaps in achievement and graduation rates. Essentially, the states can now set their goals and how they will monitor their progress toward them.

This differs considerably from NCLB which set one goal for all states: 100% proficiency in math and reading by 2014. This goal set the stage for the federal waivers from the NCLB requirements.

STUDENT TESTS

As under prior law, ESSA requires states to implement a set of high-quality academic assessments in the required testing subjects (math, reading/language arts, and science) and may choose to add other subjects. The assessments or tests must align with state academic standards and provide timely information about student attainment of the standards, and whether the student is performing at grade level (P.L. 114-95, § 1005(b)(2)).

The new law allows states to decide between administering a single end-of-year (i.e., summative) assessment (as Connecticut does now) or multiple statewide interim assessments during the school year that result in a single end-of-year score. The prior law did not allow multiple interim assessments (P.L. 114-95, § 1005(b)(2)).

The law requires the standards and the related assessments, but it does not dictate to the states what these standards and tests will be.

The law does not change the prior schedule of assessments and Connecticut law already complied with the federal law, so the existing state statutory schedule satisfies the federal law. The federal and Connecticut law are shown in Table 1.

Table 1. Required Grades and Student Assessments, State and Federal Law

Subject	*Connecticut Law*	*ESSA (same as NCLB)*
Math	Grades three to eight, inclusive, and 11	Grades three to eight, inclusive Once in grades nine through 12
Reading/language arts	Grades three to eight, inclusive, and 11	Grades three to eight, inclusive Once in grades nine through 12
Science	Grades five, eight, and 10	Once each in: • grades three through five, • grades six through nine, and • grades 10 through 12

Sources: P.L. 114-95, § 1005(b)(2) and CGS § 10-14n as amended by PA 15-238

Reporting on Results

As under NCLB, states must publicly report student test data by school and district and breakout various "subgroups" of students (ELL, special education students, racial minorities, and students from low-income households).

The results must be reported broadly for policy makers and the public without any information that could identify individual students. States and districts must also produce individual student diagnostic reports regarding achievement on the assessments that are useful for parents, teachers, principals, and other school officials to address individual student's specific needs. These diagnostic reports must be provided as soon as practicable after the test, in an understandable format, and in a language the parents can understand (P.L. 114-95, § 1005(b)(2)).

ELL Students

As allowed under NCLB, a state can choose to exclude the assessment scores of ELL students who have been in the country for less than a year. If it does so, these scores do not count under a district's or state's accountability system, but ELLs must take the tests and the results are publicly reported. In the second year, a state must incorporate ELL scores for both reading and math using a growth measure that compares the first year to the second. In the third year in the country, the students' scores would be treated the same as any other students' (P.L. 114-95, § 1005(b)(3)).

Students with Disabilities

As under prior law, the states must provide appropriate accommodations for students with disabilities when administering the tests. This includes providing for assistive technology as appropriate for special education students.

The new law permits alternative assessments for students with the most significant cognitive disabilities, but the alternative assessment must still be aligned with the state's academic standards. It caps the total number of students who can take alternative assessments at 1% of the total student population (P.L. 114-95, § 1005(b)(2)(D)). *Education Week* estimates this represents about 10% of the special education population (published online December 8, 2015).

Opting-Out of Testing

The new law allows states to enact their own testing opt-out laws and local districts or the state would decide what should happen to schools or districts that fail to reach the testing mark the state sets (P.L. 114-95, § 1005(b)(2)(K)). Under NCLB, a state could be subject to federal sanctions if the testing participation rate dropped below 95%. Under the new law, 95% is the goal participation rate, but states decide how participation figures into the school rating and accountability system.

INTERVENING IN LOW-PERFORMING SCHOOLS

The new law requires states to identify and intervene in the bottom 5% of its schools based on how the school performed under the accountability plan. These schools would have to be identified at least once every three years. In addition, states have to identify and intervene in high schools where the graduation rate is 67% or less (P.L. 114-95 § 1005(d)(1)).

States and districts must identify schools where subgroups of students are struggling even when the overall student population at that school is not struggling.

For the bottom 5% of schools and for high schools with high dropout rates, districts must work with teachers and school staff to come up with an evidence-based comprehensive support and improvement plan. The state must approve the plan and monitor the turnaround effort.

The new law requires each state to set standards that allow schools to exit from the group designated as needing a comprehensive support and improvement plan. If schools do not meet the exit standards after four years, the state would be required to step in with its own plan that must result in "more rigorous state-determined action" (P.L. 114-95, §1005(d)(3)). Depending upon the state's law, it could choose to take over the school, fire the principal, or turn the school into a charter school.

Connecticut has chosen different forms of intervention over the years including programs such as (1) the Alliance Districts, (2) the Commissioner's Network of Schools, (3) imposing a special master to lead a district, or (4) state reconstitution of a local board of education.

Under ESSA, districts could also allow students to choose to attend another school in the district if their school is a persistently low-performing school, but districts have to give priority to the students who need it most.

For schools where student subgroups are struggling, the school must come up with an evidence-based plan to help the particular group of students who are falling behind, such as minority students or those in special education. Districts would monitor the school plans. If the school continues to fall short, the district would step in, though there's no specified timeline (P.L. 114-94 § 1005(d)(2)).

Another provision calls for states and districts to come up with a comprehensive improvement plan in schools where subgroups are chronically underperforming, despite local interventions.

TEACHER EVALUATION

States are no longer required to tie teacher evaluation to student outcomes (i.e., test scores). The federal waivers to NCLB required the two to be tied together. This does not ban a state from tying the two together (as Connecticut does) but it leaves the decision to individual states.

The new law specifically bans the federal government from mandating or controlling state or local teacher or administrator:

1. evaluation systems;
2. definitions of effectiveness; and
3. professional development, certification, or licensing (P.L. 114-95, § 2002).

GRANT PROGRAMS

The law reauthorizes a number of federal grant programs, and establishes the Preschool Development Grant as on ongoing program.

It reauthorizes Title I, Part A, grants for districts and schools serving low-income populations. This is by far the largest grant in the act with more than $15 billion authorized for school districts for each of the four years the act covers (federal FYs 2017 to 2020). The new law eliminates the School Improvement Grant program as a stand-alone program and instead rolls it into the larger Title I grant program.

ESSA also reauthorizes Title I, Part B (state assessment grants), Part C (education of migratory children grants), and Part D (programs for children who are neglected, delinquent or at-risk).

It reauthorizes grants for ELL programs where states will receive funding based on a formula that considers their population of ELL students and population of immigrant children as a proportion of each of those populations in the country as a whole. ESSA maintains the existing federal prohibition against the federal government mandating or prescribing a particular curriculum or pedagogical approach for teaching ELLs.

Among the numerous other grants in the law, it provides funding for charter schools, magnet schools, family and parent engagement programs, and education for homeless youth.

Preschool Development Grants

In one of the major changes under ESSA, it makes the existing Preschool Development Grant program permanent under federal law. The preschool development grants will be awarded on a competitive basis and are intended to help states to develop or implement a plan that facilitates coordination among existing early childhood care and educational programs in a mixed delivery system (private and public providers) (P.L. 114-95, § 9212).

Grants are annual and may be renewed. There is a 30% matching requirement from non-federal funds (cash or in-kind). The funds can be used to (1) conduct statewide needs assessments of the availability and quality of existing programs, the number of children being served, and the number waiting for service; (2) devise a strategic plan; (3) encourage partnerships among Head Start providers, state and local governments, tribal organizations, and private providers; and (4) maximize parental choice among a mixed delivery system of early childhood education program providers. Funding is authorized at $250 million for each of FYs 2017 to 2020.

Under ESSA, the preschool grant program is housed at the Department of Health and Human Services to be jointly administered with the Education Department (P.L. 114-95, § 9212).

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